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President Smith Testifies About His Family Relations.

A Frank, Honest Declaration.

Prest. Joseph F. Smith Stated to the Senate Committee on Privileges and Elections That He Had Lived With His Plural Wives Since the Issuance of the Manifesto—Is Ready to Take the Consequences—His Reasons.

("Special to the "News.")

Washington, D. C., March 3.—The committee on privileges and elections of the senate learned today that President Smith has five wives living and that he supports the children which these women have borne him. President Smith made no attempt to conceal the facts; on the contrary his answers to all questions were far more full than would appear to be necessary.

He never attempted to quibble, nor was there a single evasive answer to the somewhat impertinent questions of Tayler attempted. The first session of the hearing was devoted almost exclusively to an attempt to prove that a majority of the Apostles of the Church maintain polygamous relations with wives they married prior to the manifesto in 1890.

President Smith admitted the existence of such relations when he knew of them. He did not attempt to excuse those who chose to support their plural families and to maintain relations with more than one wife; nor has he ever remonstrated with them because, as explained, he could not condemn others for practising what the practises.

President Smith's frankness seemed to surprise several members of the committee, who seemed prepared to expect evasions and excuses.

It is probable that counsel for the protestants will get all the information they could possibly desire about the "Mormon" Church before President Smith leaves the stand.

Early this morning Mr. Tayler told the "News" correspondent he expected to finish questioning him today, but at the noon recess he said he will probably continue until tomorrow. In the meantime interest in the hearing grows. There were twice as many women in the room this morning as attended the hearing yesterday, and fully 20 members of the house stood against the walls. At times, the trend of questions indicated that counsel for the protestants proposed to lift the bed curtains in the homes of every official of the Church, but this line of questioning was stopped for the time being, at least. The indications are that the testimony will fill several volumes. In transcribing the notes of yesterday's hearing the stenographers filled 106 large pages with type written characters. The aggregate is about 40,000 words and there will be much more today. Beginning tomorrow morning it is the intention of the committee to have printed copies of the previous proceedings in the hands of each member at the time the committee is called to order.

THE SMOOT INVESTIGATION.

Interest in It Grows, Policemen Having to be Stationed At the Door.

(By Associated Press.)

Washington, March 3.—So great has become the interest in the investigation of the protest against Reed Smoot, of Utah, retaining his seat in the United States senate that it was necessary to post a policeman at the door of the room of the committee on privileges and elections where the hearings are progressing. All persons except those directly interested were kept out of the room, though outside the door it was impossible almost to maintain a passage way through the corridor of the capitol.

SAD NEWS FOR SENATOR SMOOT.

Just before the hearing was begun today Mr. Smoot received a telegram from Provo, Utah, stating that his sister, Mrs. George S. Taylor, is dead as the result of an operation. He had no previous knowledge of her illness and exhibited plainly the effect of the sudden shock.

When the committee was called to order seven senators were present. Chairman Burrows gave the ruling on the questions asked of President Joseph F. Smith, relating to the polygamous marriage of George Teasdale, a "Mormon" apostle. Objections to such questioning had been made by the defendant. The committee ruled that the testimony bearing upon plural marriages of any members of the twelve apostles, of which Mr. Smoot is one, is competent so far as it relates to such polygamous marriages since Sept. 26, 1890, the date of President Woodruff's manifesto, withdrawing the order of the Church commanding plural marriages.

Senator Beveridge stated that there had been a misunderstanding as to whether Mr. Smoot was being tried on the charges of polygamy and of having taken an oath incompatible with his oath as a United States senator. Now, he said, it is apparent that these charges are not pending in this investigation.

SENATOR DUBOIS DISSENTS.

Senator Dubois dissented from the statement that there had been such a misunderstanding and said that the real charge is that Mr. Smoot is a member of the "Mormon" herarchy which subscribes to vows in conflict with the laws of the country and was bound to support such vows.

"For the first time in fifty years," said Mr. Dubois, "the relations of this organization toward the United States are to be tried."

Senator Pettus made a protest against the debate between members of the commission, and Chairman Burrows directed Mr. Tayler to proceed. Questions were then directed to ascertain Mr. Smith's knowledge of the polygamous marriage of Abraham H. Cannon and whether Mr. Smith had performed the service uniting Mr. Cannon and Lillian Hamlin.

Mr. Smith said he had seen newspaper reports saying that he had done so, but he denied the truth of the statements.

Then Mr. Tayler asked a number of questions which brought out a statement from Mr. Smith regarding his own position under the laws covering polygamous cohabitation. He acknowledged that he had violated them since the manifesto of 1890 and is ready now and always has been ready to face the laws of the land.

Mr. Tayler asked: "Is cohabitation with a plural wife contrary to the rules of the Church?"

Mr. Smith asked and received permission to make a statement and then answer the question in his own way. He spoke with great feeling and directness, just the reverse of his attitude on the stand at yesterday's hearing, saying:

STATUS OF POLYGAMY.

"In regard to the status of polygamy at the time of the manifesto I want to say that after the hearing before the master in chancery I understood that we should abstain from relations with our plural families, and that rule was observed up to the time the enabling act went into effect admitting Utah as a state. Under that act the only prohibition was that plural marriages should cease. Nothing was said about cohabitation with our wives."

"With the wives you had married previous to the manifesto you mean?" interrupted Mr. Hoar.

"That is what I mean," said Mr. Smith. "I understood that plural marriages were to cease and ever since the manifesto until the present time there never has been a plural marriage in the Church performed in accordance with its teachings or with the connivance of the Church." And he added with greater emphasis: "I know whereof I speak."

Then in answer to the question whether polygamous cohabitation was regarded by the Church as contrary to the law he answered: "It was."

DEFINES HIS POSITION.

Continuing, he said: "This was the case and is the case now. But I was placed in this position," said Mr. Smith, "I had a family—a plural family, if you please. I married my first wife more than 38 years ago and my last wife more than 20 years ago. By these wives I have had children and I have preferred to take my own chances with the law and suffer any consequences the law might visit upon me rather than abandon these children and their mothers.

"I have continued to cohabit with them since the manifesto of 1890 and they have borne me children since that date. I was fully aware of what I was doing. I knew I was amenable to the law but, as I say, I preferred to face that situation rather than to desert them. I have not cohabited with these wives openly or flaunted the fact, but I have acknowledged these wives and children as my family. The people of Utah have regarded the situation as an existing fact. These people as a rule are broad-minded and liberal in their views and have condoned the offense—if offense it is—rather than to interfere with my situation as they found it. It has been known what I have been doing. I have not been interfered with nor disturbed in any way. If I had been I was there to answer the charges. I was willing to face them and submit to the penalty, whatever it might be."

Mr. Smith paused for a moment but as Mr. Tayler prepared to ask another question he again proceeded with his statement:

DRAWS A DISTINCTION.

"You must draw a distinction between unlawful cohabitation and plural marriages," he said. "The state law in regard to the latter has been complied with. No marriages have been performed with the sanction, approval, consent, knowledge or connivance of the Church or its officials. But the other law is the one I have presumed to disregard and which, as I have said, I am ready to face rather than disgrace myself or degrade my family by turning them off."

Mr. Tayler resumed his questioning:

"You say there is a state law forbiding polygamous cohabitation and you have been continuing to violate it in utter disregard of the consequences?" he asked.

"I think I have," was the answer.

"You have caused your plural wives to bear new children in violation of the law you knew to exist?"

"That is correct," said Mr. Smith.

"Why have you done so?" persisted Mr Tayler.

PREST. SMITH'S REASON.

"For the reason I have told you. I preferred to face the law. I could not disgrace myself. I could not degrade my family."

"Do you consider it an abandonment of your family not to maintain marriage relations?" Mr. Tayler asked.

Mr. Smith faced Mr. Tayler and in a low but penetrating voice said:

"I don't like to be impertinent, but I should like you to ask any woman who is a wife"—

At that point Mr. Foraker and Mr. Beveridge objected and in discussing the question both expressed the opinion that the witness had stated fully that he had violated the laws, and that he had been frank in regard to his reasons and finally that the committee was advised on that subject. Mr. Foraker said that after such a statement as had been made by Mr. Smith it was unnecessary to ask the witness concerning his opinions on the subject of good morals.

Mr. Hoar moved that such questions be not allowed at this time, but if at a future time it was found that Mr. Smith's statement was not full and complete the committee might question him.

DUBOIS ASKS A QUESTION.

Mr. Dubois then asked Mr. Smith if it was not understood by those in authority that it was the duty of the polygamist to continue to provide for and support his plural family after the manifesto of 1890.

Mr. Smith answered that it was "generally so understood."

Resuming the inquiry concerning Mr. Smith's personal polygamous relations Mr. Tayler asked "How many children have you had since the manifesto of 1890?"

Mr. Worthington objected on the part of the defense and both Senators Beveridge and Foraker again said that they thought as the witness said his wives had borne children since the manifesto it made no difference how many such children had been born to him.

"I contend that it does make a difference," said Mr. Tayler. "It makes a difference how well the fact was advertised that he was violating the law. It makes a difference whether it was two or 22 in the effect his example might have upon others in the Church."

Mr. Burrows asked Mr. Smith if he had married any wives between the first and the last he had mentioned during his statement to the committee.

"I have," said Mr. Smith.

"How many?"

"Three."

"Then you have five wives now?" said Mr. Burrows.

"That is correct," was the response.

CHILDREN BORN SINCE '90.

Mr. Burrows ruled that the question objected to was in order and directed the stenographer to read the question:

"How many children have you had since the manifesto of 1890?"

"Eleven since 1890," said Mr. Smith. Continuing he said: "Each of my five wives has borne me children."

"Since that time?" asked Mr. Burrows.

"Since that time," the witness repeated in answer.

"I rather think," he adued, "that one of them has had three children—I could tell you a little later."

He said in reply to Mr. Tayler that he had attended the dedication exercises at the St. Louis exposition and had been accompanied by his plural wife, Edna Smith, by name.

Senator Smoot had been with them on that occasion when they had been photographed in a group.

REPLIES TO SENATOR SMOOT.

In reply to a question by Senator Smoot, he said: "Each of my families has a home of its own in Salt Lake City, and comparatively near to each other. Since the manifesto my custom has been to live with my first wife at her home, but I have visited my other families."

He also said, replying to Mr. Tayler, that he had been present at the reception to the president at Senator Kearns' residence at Salt Lake City, and that he had had one of his plural wives with him, but that she was not the one whom he took to St. Louis.

"My attitude toward my wives was of general knowledge," he said.

Senator Smoot's counsel objected, however, to the assumption that Senator Smoot knew all the circumstances connected with Smith's wives.

"We prefer to put Senator Smoot on the stand and let him tell what he knows," remarked Mr. Van Cott.

Being asked whether he had taken the test oath in 1895 before voting, Mr. Smith hesitated and his counsel asked that he be confronted with the oath. The question was temporarily withdrawn.

Senator Overman—Did Senator Smoot ever advise you to persist in your polygamous cohabitation?

Mr. Smith—I think not. I have never so far as I remember discussed my private affairs with him.

"Are the apostles your advisers?"

"I receive advice from all good men, but no more from them than other elders of the Church."

"Did they ever advise you to desist from the practise?"

"Not that I know of."

"Has Mr. Smoot visited you at your residence?"

"He has been to my first wife's house where I make what may be called my official residence."

THE TEASDALE CASE.

Asked about Teasdale, one of the Apostles, Mr. Smith said he knew nothing of his present domestic relations. He thought, however, that until two or three years ago Mr. Teasdale had two wives. Mr. Smith also was asked about Apostle Josn Taylor and he said he is reputed to be a polygamist.

"I could not say of my own knowledge."

"Have you the slightest doubt of it?"

"I haven't much doubt of it."

Asked where Mr. Taylor now is, Mr. Smith said he did not know; that some weeks ago Taylor had been sent to investigate a tract of land offered the "Mormons" and he had not heard from him since. He had been in Mr. Taylor's home in Salt ake City only once.

"Could not an Apostle be a polygamist without your knowledge?" asked Senator Dubois.

"Could an Apostle be a polygamist without your knowledge?" asked Senator Dubois.

"No, sir, not unless he violated the rules of the Church and I don't think any of them would do that."

"Then why say 'I think' and 'I suppose?'"

"Because," replied the witness, "I never saw any of them married to any woman."

Mr. Smith said that Apostles Merrill and Heber J. Grant are reputed to be polygamists; he had seen two women who were pointed out as Mr. Grant's wives. Mr. Grant is now in Europe in the interest of the Church. He has with him his second wife.

John Henry Smith is, the witness stated, the husband of two wives.

"He is a kinsman of mine," he said, "and I know positively about him."

"Did you ever advise him to desist from the polygamous practise?"

"I never did; I could not consistently do so while I myself was practising the system."

Mr. Smith was asked about other Apostles.

Mr. Cowley is, he said, a reputed polygamist. Rudger Clawson is not. He was especially explicit concerning F. M. Lyman, president of the Apostles and in the line of succession to himself. Mr. Smith said that Mr. Lyman being present should answer for himself but the committee insisted and he replied that Mr. Lyman was reputed to have two wives.

"Have any of these men taken plural wives since the manifesto of 1890?" asked Senator Beveridge.

"I repeat," said Mr. Smith, bringing his fist down on the table with some emphasis, "that since the manifesto of 1890, no man has entered into plural marriage with the knowledge or approval of the Church."

He was asked by Mr. Tayler about Marian Scholes Teasdale, deceased, who, was stated, had never met Mr. Teasdale until 1903.

Mr. Smith replied that he had not known the lady, but that he had understood that Mr. Teasdale had not known when he married her that he had another wife.

"When your deacons go out and make converts in other lands, do they not present the rightfulness of polygamy as a religious virtue?"

This question was put by Senator Hoar and was answered in the negative.

"They never discuss polygamy," Mr. Smith said, "unless compelled to do so to meet attacks. They do not advocate polygamy in any way. Indeed, the Elders are instructed not to advocate plural marriages at all; it is a thing of the past."

PRYS INTO PRIVATE LIFE.

Tayler's Questions Cause Prest. Smith To Display Some Heat.

(Special to the "News.")

Washington, D. C., March 3.—In the hearing this afternoon the session of the committee the trend of all questions put by Tayler and Dubois was in the direction of establishing the alleged fact that the Church in addition to controlling the spiritual affairs of all its members also controls practically all their temporal affairs, and that in consequence Senator Smoot is bound to obey his Church in all things, and that even his vote in the Senate of the United States would be governed by orders from Salt Lake in the event of any question arising in which the Church interests might be antagonistic to those of the organization of which he is one of the governing authorities.

Mr. Tayler even went so far as to declare his belief that if necessary he can prove that Senator Smoot would be compelled to transfer any property which he may own to other parties if directed by the Church to do so or else he would have to give up his apostolic position.

During the fire of questions to which he was subjected concerning Brigham H. Roberts, Mr. Smith displayed some heat and announced that the discussion of his private affairs was very distasteful to him and he only answered questions as to personal affairs of other members of the Church because he was compelled to do so. He said that he does not care to be published to the world as one who is prying into and exposing the purity of private affairs of individuals and that he has nothing but supreme contempt for persons who occupy such positions toward their neighbors.

SEN. SMOOT IN SORROW.

Greatly Grieved on Receipt of News of Death of His Sister.

(Special to the "News.")

Washington, D. C., March 3.—Senator Smoot today has every indication of a man laboring under a severe mental strain, but it is not on account of the ordeal through which he is passing in the committee room. Early in the morning he received a telegram advising him of the death of his sister in Provo. The news staggered him and for the time drove all thoughts of investigation from his mind. He would like to proceed to Salt Lake tonight to attend the funeral, but under the circumstances this is impossible, and he is compelled to remain here. The senator was in receipt of many condolences. Even those opposing him were hastening to extend sympathy in his affliction.

CALL ON NEW YORK DEPOSITORY BANKS.

Secy. Shaw Wants Twenty Per Cent. of Their Government Holdings on Account of Panama Payment.

Washington, March 3.—The secretary of the treasury today will call on the depository banks of New York city to deposit 20 per cent of their government holdings in the sub-treasury, the money to be turned over today to J. P. Morgan & Company as the financial representative of the republic of Panama on account of the Panama canal purchase. This 20 per cent will aggregate about $8,000,000 and the remaining $2,000,000 will be taken from the sub-treasury. The secretary also will call on all the special depository banks to forward to designated depository banks in New York 20 per cent of their holdings on or before March 25. This will result in a deposit altogether of about $30,000,000. The remaining $20,000,000 will be supplied by the treasury itself.

Upon further consideration of the exact terms of the treaty with the republic of Panama it has been determined by the government to pay the payment of $10,000,000 to that country and the payment of $40,000,000 to the Panama Canal company in Paris at the same time. Therefore, Secretary Shaw has modified his call requiring the outside banks as well as the banks of New York City to make returns of their 20 per cent any time before March 25.

Railroad and Iron Magnates Are Coming.

Meeting of George J. Gould and President Hearne of the Colorado Fuel and Iron Company to Take Place Here This Week—Other Men of Prominence in The Same Line Also Included.

George J. Gould, president of the great Gould system of railroads, accompanied by his family, Edward T. Jeffery, president of the Denver & Rio Grande and the Rio Grande Western, and several railway officials and friends, are expected to arrive here in a special train from San Francisco tomorrow or Saturday. Manager J. A. Edson of the Rio Grande system leaves Denver tonight on No. 3 in order to meet the party here and escort them over the line on the trip of inspection.

President Hearne of the Colorado Fuel & Iron company, is also on his way here from the coast in J. C. Stubbs' private car "Sunset" to meet the party, which would indicate that Mr. Gould will look into the iron propositions in Iron county on the occasion of his visit here. Mr. Hearne arrives tomorrow night.

Just what the visit means is not forthcoming. It has been the custom of Mr. Gould to take a trip over his lines annually and it is thought that this is in accordance with his policy. On the other hand it is asserted that he is looking over the ground prior to the building of the Western Pacific to connect with the Rio Grande in Salt Lake. In this connection, however, according to an Associated Press dispatch received from San Francisco this morning, Mr. Gould denies that he is behind the project. The Southern Pacific connections with the Gould and other roads to the west, he said, were eminently satisfactory and he could see no reason why he should contemplate an invasion of the coast territory so long as these pleasant relations continued. The same statement, he added, would apply to the Santa Fe connections.

The special train which is due to arrive here is made up of three private cars of as many railroad officials, and a baggage car. To this train at Ogden will be added Manager Edson's car "Denver," and probably General Superintendent J. H. Young's car. The other cars that are coming right through are Mr. Gould's "Al" of the Missouri Pacific, Mr. Jeffery's Denver & Rio Grande car "Bally Clare," Mr. Thorne's Texas & Pacific car "100." In addition to Mr. Gould, the eastern party consists of his two sons, J. and Kingdon Gould; E. T. Jeffery, president of the Denver & Rio Grande; L. S. Thorne, vice president and general manager of the Texas & Pacific; Leroy Trice, vice president and general manager of the International and Great Northern; George Kramer, vice president of the Colorado Midland and of the Utah Fuel company; Benjamin Nicoll, an iron and coal magnate of New York; O. B. Huntsman, tutor to Mr. Gould's sons; W. F. McClelland, secretary to Mr. Gould and Mr. Jeffery on the trip; and Messrs. Crow and Joiner, secretaries respectively to Mr. Thorne and Mr. Trice.

The original party started from New York on Feb. 11.

Rose, the Fiend, Was He Insane?

Counsel for Defense So Argues—Prisoner Himself Says He Was Not and That He Knew What He Was Doing When He Murdered His Wife and Wants to be Punished Therefor—State Would Accommodate Him.

The Rose murder case will be submitted to the jury late this afternoon, and it is expected that a verdict will be returned before the court adjourns at 5 o'clock. The entire session this morning was taken up with the arguments in the case and the closing argument for the defense was being made by Attorney Soren X. Christensen when the court took its noon recess. Mr. Christensen stated that he would conclude his argument in about 30 minutes after court convenes. The closing argument for the state will then be made by District Attorney Eichnor after which the court will instruct the jury and the case will then be submitted.

Assistant County Attorney Dana T. Smith made a very forcible appeal in his opening argument for the state. He spoke for about 45 minutes. He was followed by Attorney C. S. Kinney who made the opening argument for the defense. Mr. Kinney took up about the same time as Mr. Smith in his argument. Mr. Christensen commenced his argument at about 11:30 o'clock and had fairly got started when the court adjourned until this afternoon.

THE STATE'S CASE.

Assistant County Attorney Dana T. Smith in the openng argument in behalf of the state said in part: "Gentlemen of the jury, since the 27th of December, 1903, the responsibility connected with this case has rested upon the prosecuting attorneys and the sheriff. Now the mantle of responsibility has fallen from our shoulders onto yours, and it is for you to accept it and finally determine whether the defendant is guilty or innocent. This is a case wherein Frank Rose is charged in the informaton with murder in the first degree for the killing of his wife in this city on Christmas day, 1903. This defendant married the woman he murdered, when she was only 16 years of age. After living with her for a few months he deserted her and for 14 months failed to povide her with the common necessaries of life. He went to California and then to Nevada, and he finally sent for her to come to him at Dieppe, Nevada.

TEMPTATION IN HER WAY.

"At the latter place, he says, he discovered that she had led a life of shame in St. Louis. He says he then decided to come to Salt Lake for the purpose of testing her to see if she would lead such a life if she had an opportunity. The next day after he arrived here we have him taking her into a wineroom, deliberately placing temptation in her way. Who is this man that he should constitute himself the sole judge of this woman and condemn her for her sins and then execute her? The testimony shows that this woman sold her virtue time and again to furnish this man with money. He admits that she brought him $50 and he accepted it.

DEATH WAS PREFERABLE.

"He says thae she was willing that he should shoot her. Perhaps she did prefer death to a life of shame in company with such a brute! He is attempting to justify himself and make you believe that his honor as a husband had been outraged by her iniidenty. He is concealing something here in connection with his actions. That is shown by the evidence of two witnesses for the state who testified as to Rose bringing his wife to the saloon and soliciting men for her. Then again he says there was no resistance on the part of his wife when he shot her. The facts are that the flesh in both her hands was torn. Is it not probable that there was a struggle; that she grasped the revolver; that he pulled it through her hands and tore the flesh and then overpowered her and murdered her? That is most certainly a reasonable deduction to be drawn from the testimony in this case.

MOST HORRIBLE.

"The action of this brute in murdering his wife as he did and leaving that little baby there with its mother's corpse for two days was most horrible and atrocious in every detail. His attorneys will tell you that the enormity of the crime is in itself evidence of the insanity of this defendant. Gentlemen if that is the case, then all a murderer has to do is to make his crime as atrocious as possible and interpose a defense of insanity and then be acquitted. They will argue that he believes in predestination, and that he could not avoid killing his wife because he believed that he was predestined to do so. Gentlemen, I care not what are his beliefs, whether it is predestination or anything else. The law does not recognize any religious belief or creed as a defense for such a crime as this.

KNEW WHAT HE DID.

"Defendant was asked if he knew at the time he shot his wife that he was committing a crime, and that he would be punished by the law for it. His answer was that he did. Gentlemen of the jury, if he knew that he was perfectly sane and knew right from wrong. The only question for you to determine is whether he knew right from wrong at the time he committed this act, and according to his statement there is no doubt about that. If you find that he did know right from wrong it is your duty to return a verdict of guilty. All we want you to do is to carefully consider that question and render a verdict in accordance with the testimony here. I thank you for your attention."

ARGUMENT OF DEFENSE.

Atty. C. S. Kinney made the opening argument for the defense. He referred to the crime as being one of the most unusual in the history of crime. He reviewed the evidence in regard to defendant's married life, of his attempts to induce her to quit her life of shame and lead an honorable life.

"Rose detailed the killing of his wife to you very minutely," continued the attorney, "and told you that he had threatened to kill her several times if she did not quit her life of shame. In view of the injuries received by him several years ago and in view of the horrible details connected with the crime, I must confess that I am unable to state whether he is sane or insane. He tells you that he believes in predestination and that he believed it was predestined that he should kill his wife and he did it and has no regrets at all. Might not his mind have become so distorted by reason of his belief in predestination that he did not know what he was doing and did not know right from wrong when he killed his wife?

INSANITY TESTIMONY.

"Let us look at the expert testimony on insanity. Dr. Jones and Dr. Douglas both stated that they could not say whether defendant was sane or insane. They are in doubts about it. Dr. Mayo, the assistant prosecuting attorney, declared that defendant is sane. When asked why he thinks so, he simply replies, because he does, and that is the only reason he can give for his belief. Gentlemen of the jury, this defendant has not had a fair and impartial trial. That is perhaps a startling statement to make. It is not your fault, it is not the court's fault and it is not the fault of the prosecuting attorney and his assistant, but it is the fault of the law. The law is defective for the reason that, in a case where the defense of insanity is interposed, there is no provision made for the defendant to procure the benefit of expert testimony. Here is a man on trial for his life, without any funds to conduct his defense, and the law does not provide him an opportunity to secure the benefit of an examination as to his sanity by an expert in that line.

"The physicians who were asked to examine him, refused to do so unless they were paid $25 for their services. One of the expert witnesses told the court in your presence that he would refuse to testify unless some provision were made for his remuneration. Thus, gentlemen, you see that we have been handicapped in our defense of this man. In conclusion I will say that if you believe that defendant was in his right mind when he committed the crime and knew right from wrong, it will be your duty to return a verdict of guilty, but if you are not sure beyond a reasonable doubt that he was sane then it is your duty to acquit him."

CHRISTENSEN FOLLOWS.

Attorney Soren X. Christensen followed Mr. Kinney and made the closing argument for the defense. He called the jury's attention to their sworn duty to consider the case fairly and impartially and sair that if they returned a verdict of guilty and defendant was executed when he was insane they would be guilty of a judicial murder.

SAYS HE IS CRAZY.

"Gentlemen I can not bring myself to believe that this man is sane and knows right from wrong. The testimony on that point shows that the physicians are in doubt as to his sanity. Dr. Mayo is a man who believes that in time of peace he should prepare for war. I do not believe in that saying especially when a man's life is at stake. After this man was placed in jail one of the first things Dr. Mayo and the county attorney did was to examine him as to his sanity. Why did they do that? Simply because there was something in his act and his conduct which denoted insanity, and then too, they believed in that motto, 'In time of peace, prepare for war.'

"They said, this man might interpose a defense of insanity and we must head that off and show that he is not insane. Why, gentlement of the jury, the very fact that he committed this crime as he said he did and then can get up here on the witness stand and tell of it in the cool and deliberate manner in which he did, is evidence enough to my mind that he is insane. The question for you to determine is that he is capable of judging right from wrong. If you bring in a verdict of guilty without a recommendation for mercy, the penalty will be death, but if you bring in a verdict with such a recommendation, he will be sentenced to life imprisonment. Should you find that he is not mentally responsible for his acts, you should return a verdict of not guilty and the punishment for his crime will be left to a higher tribunal."

At this point the court took a recess until this afternoon.

FURTHER CROSS-EXAMINATION.

The further cross-examination of Rose by Dist. Atty. Eichnor at the afternoon session yesterday lasted about 35 minutes but nothing of unusual interest was brought out. He said that his wife gave him about $50 altogether which he said he was compelled to accept because he had no money. When asked if he knew his wife made the money by prostitution he said that he suspected it. At the conclusion of Rose's examination the defense called two physicians to give expert testimony on the condition of the defendant's mind.

Dr. P. O. Jones was the first physician called. He was asked by Atty. Christensen whether or not he had an opinion as to Rose's sanity, judging from his appearance, his testimony on the stand and the history of his early life as related by him. Dr. Jones addressed the court and said that he would refuse to answer the question unless ordered to do so by the court, until he had been assured that he would receive compensation as an expert witness. Judge Morse informed him that the law did not provide for the payment of extra fees to expert witnesses and instructed him to answer the question.

"No, I have no opinion," replied the doctor, "I can't form one."

"Are you in doubt as to whether he is sane or insane?"

"Yes sir."

"It would take considerable observations to determine that question?"

"Yes, sir, it would."

Dr. C. I. Douglas was the next witness called. He said that in his opinion Rose's actions were extraordinary but that he is sane. At the conclusion of his testimony, the defense rested its case. After consulting with Asst. County Atty. Dana T. Smith briefly, Dist. Atty. Eichnor called Dr. Mayo to the stand in rebuttal. He stated that Rose is sane and capable of judging right from wrong. The state then rested its case and the court took a recess until this morning when the arguments were made.